

AARON D. FORD
Attorney General
Michael J. Bongard (Bar. No. 7997)
Senior Deputy Attorney General
State of Nevada
Office of the Attorney General
1539 Avenue F, Suite 2
Ely, NV 89301
(775) 289-1632 (phone)
(775) 289-1653 (fax)
mbongard@ag.nv.gov
Attorneys for Respondents

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TOMMY STEWART,

Petitioner,

vs.

GABRIELA NAJERA, *et al.*,

Respondents.

Case No. 2:21-cv-01490-APG-BNW

**UNOPPOSED MOTION FOR AN
EXTENSION OF TIME TO FILE THE
RESPONSE TO THE REPLY TO ANSWER
TO THE REMAINING CLAIMS IN THE
SECOND AMENDED PETITION FOR WRIT
OF HABEAS CORPUS
(ECF NO. 50)
FIRST REQUEST**

Respondents, through legal counsel, Aaron D. Ford, Attorney General of The State of Nevada, and Michael J. Bongard, Senior Deputy Attorney General, hereby move this court for a thirty-two (32) day enlargement of time, up to and including Monday, December 11, 2023, in which to submit the response to the reply to the answer to the remaining claims in Petitioner Charles Stewart's Second Amended Petition for Writ of Habeas Corpus (ECF No. 50). The response is currently due November 9, 2023. Respondents base this motion on the declaration of Counsel.

This is Respondents' first request for an extension of time in which to file the response and made in good faith and not for purposes of delay.

DATED this 8th day of November, 2023.

AARON D. FORD
Attorney General

By: /s/ Michael J. Bongard
Michael J. Bongard (Bar No. 007997)
Senior Deputy Attorney General

DECLARATION OF MICHAEL J. BONGARD

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2 1. I am a Senior Deputy Attorney General employed by the Attorney General's Office of the
3 State of Nevada in the Post-Conviction Division, and I make this declaration on behalf of Respondents'
4 Motion for Enlargement of Time to file the response to the reply to the answer to the remaining claims
5 in Petitioner Tommy Stewart's Second Amended Petition (First Request) in the above-captioned case. In
6 this motion, I am requesting a thirty-two (32) day enlargement of time, up to and including, Monday,
7 December 11, 2023, to file and serve the response to the reply to the answer. The response is currently
8 due November 9, 2023.

9 2. Since Stewart filed their reply to the answer on October 10, 2023, Counsel filed the
10 following pleadings in federal court: 1.) On October 24, 2023, the response to the reply to the answer to
11 the remaining claims in *Moore v. Gittere*, et al., USDC case number 2:13-cv-00655-JCM-DJA (death
12 penalty case; 2.) On October 26, 2023, a motion to dismiss in *Perry v. Najera*, et al., USDC case number
13 2:23-cv-00311-GMN-EJY; and 3.) On November 7, 2023, a motion to dismiss in *Green v. Garrett*, et al.,
14 USDC case number 2:14-cv-01388-APG-NJK.

15 3. Counsel also was preparing for a jury trial in *State v. Brown*, Seventh Judicial District
16 Court case number CR-22-08101 (White Pine County), scheduled for October 24-26, 2023. A plea in
17 that case and another case involving the same defendant was entered on October 24, 2023. Counsel also
18 prepared for the bench trial in the Ely Justice Court in a small claims matter, *Massengale v. State of*
19 *Nevada, ex rel, NDOC*, Ely Justice Court case number 23-SC-00033-7k, on November 6, 2023.

20 4. Along with the response in this case, Counsel is currently working on the following
21 pleadings: 1.) The answer brief in *Carter v. State*, Nevada Supreme Court case number 85520, currently
22 due December 21, 2023; and 2.) The answer brief in *Flores v. Gittere*, et al., Ninth Circuit case number
23 23-16047, currently due November 17, 2023. Counsel will be seeking an enlargement of time in this
24 matter.

25 5. Counsel was also working on the answer brief in *Orth v. Warden*, et al., Ninth Circuit case
26 number 22-16452, and had filed a motion for enlargement of time in the matter. However, on November
27 3, 2023, the Court entered an order suspending the briefing schedule because Petitioner/Appellant filed
28 a motion to proceed pro se.

3 For these reasons, Counsel respectfully asks this Court to grant the request for an extension of
4 time of thirty-two (32) days to file the response to the reply.

5 DATED this 8th day of November, 2023.

By: /s/ Michael J. Bongard
Michael J. Bongard (Bar No. 007997)
Senior Deputy Attorney General

IT IS SO ORDERED:

UNITED STATES DISTRICT JUDGE

Dated: November 9, 2023